



January 20, 2004

Mr. Horst Greczmiel  
CEQ Associate Director for NEPA Oversight  
722 Jackson Place, NW  
Washington, DC 20503

Dear Mr. Greczmiel:

The Society of American Foresters is encouraged by the efforts of the CEQ National Environmental Policy Act Task Force (NEPA TF). The report outlines some key issues associated with NEPA implementation that need to be addressed, particularly as they relate to the practice of forestry in the U.S. While we strongly support the principles of the NEPA, at times it has diverged from its original purpose and become a litigation tool rather than an analytical tool. We believe some of the recommendations in this report can help to reinforce the NEPA's purpose to aid and inform decision makers.

Below are comments on specific recommendations in the report. Not commenting on a recommendation does not signify that we either approve or disapprove of the recommendation.

### Technology and Information Management and Security

*Sharing of NEPA information via meetings, conferences, and workshops:* We strongly encourage continued improvements and uses of new technology in the NEPA process. Everyday, new tools are developed to aid decision-making processes, particularly in forest management. We applaud the report's recommendation that the CEQ sponsor meetings, conferences, and workshops to promote the development, use, and sharing of NEPA information systems. Land management agencies in particular, could benefit from opportunities to learn from each other. We would encourage the CEQ to include external partners that have developed innovative decision making technologies that can be applied to the NEPA process.

*Guidance to clarify role of communication and information dissemination technologies during NEPA process to enhance public involvement techniques:* We strongly encourage the CEQ to clarify and make consistent, the use of such technologies that help the agencies inform and interact with the public during the NEPA process. This will not only create consistency among the federal agencies and allow for better integration and information sharing, but will also assist the public in having a consistent federal-wide system to engage in, rather than different systems for different agencies. This could not only reduce the costs and time spent on the NEPA, but could also help better engage a public that is under similar cost and time constraints.

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*Establish a NEPA technical working group to coordinate with interagency groups on addressing NEPA process information requirements when new standards and protocols are developed, increasing awareness of NEPA process information technology throughout the NEPA community, and facilitating identification and use of information resources developed according to established standards:* We support the creation of such a group, that will allow for more information sharing among the federal agencies and can lead to greater efficiencies. This working group could also assist in implementing the other recommendations in this section. This working group should ensure proper external communication when necessary to better involve the public. Any improvements in information and technology in the NEPA process must allow for public accessibility.

*Review of quality control and assurance standards for NEPA analyzes and documentation:* Review and quality control is critically important to the success of the NEPA process. We strongly support the Report's recommendation that the CEQ review agency quality controls for NEPA analysis and documentation. We also encourage the CEQ to not only review these processes but to ensure problem areas are repaired if found. Review is only beneficial when combined with necessary corrective action.

*Work group to develop and promote consistent policies for sensitive information in the NEPA process:* Such interaction is a necessary and very effective way to address the ever increasing issue of sensitive information.

The recommendations in this section are all laudable recommendations and if properly implemented, can lead to improvements. However, several will take additional time and money to develop and expand upon. Given the current fiscal climate, we encourage the CEQ to work with the Task Force, federal agencies, Congress, and the public to prioritize these recommendations and create a timeframe for implementation.

## **Federal and Intergovernmental Collaboration**

We strongly believe collaboration is an integral piece of the NEPA process. As outlined in the Report, collaboration "is important to help ensure that decision makers have the environmental information they need to efficiently make informed and timely decisions." When making forest management decisions, collaboration is critical because of the complexity of the resource and its associated ecological, social, and economic values. However, we have seen the purposes of collaboration in the NEPA process for forest management decisions become increasingly unclear. Is the purpose of collaboration to simply inform the decision makers of issues and areas of concern and then allow the decision makers to ultimately make the final decision? Or do the collaborating entities have a stronger role in the decision making process?

*Focusing on better collaboration among agencies by identifying, developing and sharing methods of engaging partners in training on the principles of NEPA, partner agencies' missions, communication skills, and public involvement skills:* SAF strongly supports the development of such training. The NEPA process is extremely foreign to those who do not engage in it on a regular basis or have the time to actively research the process. We encourage such training to include not just other agency partners but anyone interested in the NEPA process. We encourage

the CEQ to include clear definition of the purposes and goals of collaboration in this training session.

*Developing guidance addressing components of successful collaborative agreements and templates for memoranda of understanding applicable to various stages in the NEPA process:* We strongly support developing consistency and continuity in these agreements and memoranda. This will help agency partners more effectively collaborate and save time and costs of recreating these agreements.

*Examining lessons learned by others through CEQ sponsored meetings, workshops, and training:* While this will certainly require expenditure of funds, the agencies can certainly benefit from such an exchange. Even holding such meetings at a regional or sub-regional level could be helpful.

*Developing training to enhance agencies' work with the public:* There is a great need among the average citizen for training in such processes. Generally, common knowledge of the NEPA process is minimal, thus increasing this knowledge can only improve the interactions between the public and the agencies, and assist the public in becoming more effective in their involvement, saving both their time and the time of the federal agency employees.

*"Citizen's guide to NEPA:"* This idea is consistent with the previous recommendation. We strongly encourage the CEQ to invest in this idea, and include sections tiered to each federal agency as well.

## **Programmatic Analyses and Tiering**

*Emphasize collaboration as agencies expand the use and scope of programmatic NEPA analyses:* First, the SAF encourages the increased use of programmatic analyses, used consistently and where appropriate, as a means of streamlining the currently cumbersome NEPA process. Collaboration among the agencies and various government entities, communities, and private landowners, is key to successful programmatic analysis. In federal forest land management, programmatic analysis can be used to conduct broad scale, landscape level analysis at, for example the forest level or the region level. Analysis at this level has implications not only for federal land but for the surrounding lands. Collaboration can assist the agencies in developing better analysis and assessing the broad scale cumulative effects more accurately. We encourage the CEQ to ensure the process for collaboration is clearly defined, including at what stages the public will be involved and the extent and role of the involvement.

*Include a section in the first tier document that explains the relationship between that document and the programmatic analysis and any further tiered documents and describe how stakeholders will be involved:* Clearly defining the relationship between these documents is important for both the agencies and the stakeholders and can reduce confusion for stakeholders who wish to be involved in the process.

*Emphasize that programmatic documents should explain where and when deferred issues will be addressed and describe the proposed temporal and spatial scales that will be used when*

*analyzing those issues:* This guidance is extremely important, particularly for the federal land management agencies, and we encourage each agency to consider developing individual guidance to help land managers determine which issues are to be covered at which levels. This can demonstrate to land managers the advantages of utilizing programmatic analysis for certain issues and avoid duplicative analysis.

*Develop criteria for agencies to use when evaluating whether a programmatic analysis is outdated and articulates a general life expectancy for programmatic documents:* While this may be useful to outline lifespans, we encourage the CEQ to allow for flexibility among the agencies when defining when a programmatic document has become outdated. Often, the category of action covered in the programmatic document (i.e., policy, land use, or program) and the resource or issue covered will determine the lifespan.

*Creation of Federal Advisory Committee to provide advice on: validating the different uses of programmatic analyses, examining whether programmatic NEPA analyses and documents for different uses have similar scope, range of alternatives, and specificity of environmental analysis, evaluate the depth and breadth of the analyses and documentation associated with the different uses of programmatic documents, propose guidance or regulatory changes to address these issues:* We support the creation of such a committee to further examine these issues and offer additional changes. Particularly, there is a great need in the federal land management agencies to have guidance on the breadth and depth of the analysis associated with programmatic documents. Without such guidance, the agencies often struggle with how much analysis is enough and which issues can be covered at which analysis level.

## **Adaptive Management and Monitoring**

*Establish an adaptive management work group to consider revising existing regulations or establishing new guidance to facilitate agencies' ability to exercise the option of incorporating adaptive management into their NEPA process:* SAF has long been a proponent of adaptive management and monitoring. While no one knows everything about forest ecosystems, with an adaptive management and monitoring component, managers can continue to move forward, learning from decisions and revising actions when necessary. Incorporating adaptive management into the NEPA process as a mitigation measure could be extremely beneficial. The concern with including adaptive management and monitoring in the NEPA process is typically a lack of funding for such activities. Particularly in forest management, monitoring is often grossly under funded and thus adaptive management is not achievable to the extent necessary or to the extent the public may have come to expect. Particular emphasis should be placed on identifying which factors should be monitored and to establish consistent performance measures and thresholds. We encourage the CEQ, if they are to include adaptive management and monitoring in the NEPA process, to ensure adequate funding to fulfill this component.

*Ask the work group to initiate a pilot study to identify the types of actions best suited for integrating adaptive management into the NEPA process:* This type of information would be extremely useful to land managers, broad categories of actions where adaptive management is feasible. Currently, adaptive management in the federal land management agencies is not used often for a number of reasons, including lack of guidance. With such guidance as well as

flexibility to utilize adaptive management in NEPA and proper funding to implement it properly, the federal land management agencies can begin to utilize the principle.

## **Categorical Exclusions**

*Address the documentation prepared at the time a categorical exclusion is used:* Consistency and clear definition of required documentation will help ensure that categorical exclusions are utilized properly and allow the public to have a clear understanding of the agencies' requirements when categorically excluding a project or activity. We encourage the CEQ to follow through with this recommendation.

*Suggest methods and information, such as post-implementation monitoring and effects analyzes and studies, categorical exclusion benchmarking studies, and statements of agency professionals which agencies can use to determine whether a category of activity does not individually or cumulatively have a significant effect on the human environment:*

SAF supports the use of categorical exclusions where appropriate as means to expedite the NEPA process, while still complying with the statute. Establishing guidance to help agencies make the determination as to whether an activity may be categorically excluded will ensure consistency in implementation of categorical exclusions and will also assist the public in determining whether the agencies are properly using this tool. The guidance should allow for adequate flexibility for agencies to make these determinations based on a variety of evidence such as credible field collected data or properly conducted studies.

*Encourage the agencies to develop categorical exclusions, where appropriate, based on broadly defined criteria that will provide the agency with sufficient flexibility, and encourage the agency to offer examples of frequently conducted activities that would usually fall within the categories:* Again, we support the use of categorical exclusions where appropriate, and encourage the CEQ to continue to explore new opportunities for using categorical exclusions.

*Emphasize the agencies should periodically review and update their categorical exclusions and their procedures for adding, revising, or deleting categorical exclusions. Also encourage the agencies to establish a mechanism to track suggestions from their field offices for developing and revising categorical exclusions.* This recommendation will help improve and potentially increase the use of categorical exclusions where appropriate. We encourage the CEQ to work with the agencies to develop a method to continuously identify projects and activities that could be categorically excluded.

*Clarify the CEQ review process and provide a renewed commitment to meeting the CEQ 30-day period for reviewing proposed categorical exclusions:* We encourage the CEQ to continue to strive for timeliness in reviewing new or amended categorical exclusions, as this is extremely important to allowing agencies to move forward with work on the ground, particularly time-sensitive work such as hazardous fuels reduction in forested areas. If the agencies are aware of the process and the timeframe, they can adequately plan for time-sensitive projects.

*Encourage agencies to expand public outreach beyond the Federal Register notice and comment period to facilitate public involvement in changing their categorical exclusions and to scale that*

*outreach to the extent of the proposed changes to the categorical exclusions:* Public outreach in the development and revision of categorical exclusions can be very useful to get new ideas and issues to the table but to also build public understanding of the use of categorical exclusions. This recommendation is laudable although it will be dictated by time as well as available funding, and the CEQ should be aware and accommodate these limitations.

## **Environmental Assessments**

*Specify existing minimum EA requirements for all EAs in one guidance document:* SAF strongly supports this recommendation. This has become a significant problem for the land management agencies. Because there are no clear requirements, often the agencies overcompensate in EA analysis to avoid future appeals or litigation of projects, and essentially conduct a full analysis, similar to an EIS for an EA. Clear guidance can avoid such overcompensation. Guidance should clarify when an EA or mitigated EA is the adequate level of analysis. Public land managers have the tendency to resort to EISs in an effort to “bulletproof” their projects against legal challenges. Specific guidance would be useful to such agencies both in determining their level of analysis and defending those analyses in judicial settings.

*Address what should be included in an EA and FONSI to demonstrate that agencies have comprehensively considered the potential environmental consequences of the proposed action before taking the action:* This guidance will help agencies answer the question: how much analysis is enough? This guidance may also assist when agencies are embroiled in litigation over this issue.

*Emphasize that EAs and FONSI should focus on issues or resources that might be significantly affected or are a public concern. Specifically, the guidance should:*

- *Emphasize that agencies should address proposed alternative effects and provide sufficient evidence and analysis about whether to prepare an EIS:* We encourage the CEQ, in preparing this guidance, to maintain the intent of an EA as an analytical document that is designed to provide a quick look at the impacts of a project. Guidance should include some direction as to how much evidence is enough evidence before deciding to prepare an EIS or issue a FONSI.
- *Emphasize that agencies should provide and explain effects determinations for each issue of interest to the public and of potential significance:* Providing these explanations, especially for those issues of interest to the public can be helpful. This guidance should however, explain how much analysis is enough and explain the elements of the effects determination for an EA.
- *State that following the CEQ EIS format to prepare an EA is unnecessary even though the issues might be similar to those addressed in an EIS:* We strongly support providing guidance on this issue because very often EAs and EISs are either confused or an agency chooses to perform an EIS for no better reason than to “bulletproof” its project against legal challenges.
- *Clarify that the impact discussion requirements within an EA and FONSI should be proportional to their significance and level of public concern:* Again this is important

direction to help the agencies distinguish between analysis requirements in EAs and FONSIIs as compared with an EIS, particularly to temper the tendency to “over-analyze.”

- *Support and identify the methods to incorporate documents by reference and recommend that an EA should be attached to a FONSI or incorporated by reference:* These recommendations will ensure consistency in reference reporting and documentation in FONSIIs.
- *Emphasize that agencies must ensure the professional integrity and high quality of the environmental information within EAs:* Professional integrity and high quality information are key to the NEPA process; we encourage the CEQ to not only provide this guidance for the development of EAs but for all NEPA documents.

*Provide an easily understood and applied definition of mitigated FONSI, and clarify that a mitigated FONSI is approved based on the mitigation measures and therefore an EIS is not required:* This guidance will help provide clear guidance for both the agencies and the public to better ensure effective use of the NEPA process. It must be clear, however, that even if the agencies issue a mitigated FONSI or conduct a full EIS, the NEPA process is not designed to make decisions, only inform them and help decision makers make a better decision. Agencies should feel comfortable with the appropriate level of analysis and appropriate NEPA product, and should not default to preparing an EIS in every controversial instance. This recommendation also highlights the need for guidance regarding the monitoring and oversight of the mitigation practices. Clear guidance as to whether this is necessary and how it should be done is important. However, again the CEQ should keep in mind the funding implications of monitoring and enforcement.

*Address the ability of a FONSI to serve as a legally binding mechanism to enforce mitigation particularly when mitigation measures must be considered and adopted:* We encourage the CEQ to provide guidance on this but remain cautious of making FONSIIs legally binding when deciding how to enforce mitigation measures. In some circumstances mitigation measures may be changed or dropped because of changes in circumstances. While there should be oversight over the implementation of mitigation measures, we urge extreme care before making them legally binding.

*Discuss how to adequately incorporate the EA analysis into FONSIIs:* This recommendation will help ensure consistency in FONSI documentation across the federal agencies, aiding both the agencies and the public in the process.

*Address unresolved conflicts concerning alternative uses of available resources and call upon agencies to clarify their rationale for presenting alternatives with an EA:* When addressing the issue of conflicts over uses of available resources, the CEQ should permit flexibility for the agencies to use their professional experience and knowledge to make a decision in such cases, and clarify this issue in the eyes of the public as well. Providing clear rationale for the alternatives in EAs will help resolve some of the conflicts and also help in any future discussions or judicial proceedings.

*Support documenting eliminated alternatives in a separate section at the beginning of EAs and identify criteria that agencies can apply to eliminate alternatives including cost, logistics,*

*technology, and greater adverse environmental effects:* While the idea of documenting eliminated alternatives could avoid further explanation in the future if the public were to raise one of these alternatives, it should be clear that this is optional and not every alternative needs to be listed. We strongly support the creation of some criteria to use in analyzing alternatives, particularly in discarding certain alternatives. This can help agencies eliminate up front, those alternatives that are not feasible and move more quickly to feasible alternatives, avoiding a need to conduct full analysis on alternatives that are clearly not options.

*Clarify that all agencies can address the no action alternative by contrasting the current condition and future condition in the absence of the proposed action, and clarify whether this approach can be used when there are unresolved conflicts concerning alternative uses of available resources:* We encourage the CEQ to offer some guidance on this issue, to avoid unnecessary analysis particularly in an EA, at times when it may be beneficial to contrast alternatives with the no action or even with the proposed action.

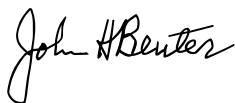
*Clarify and highlight the definition of the no action alternative to foster consistent application:* We strongly support clarity on this issue, and encourage the CEQ to provide the necessary guidance.

*Explain that public involvement requirements in an EA should be commensurate with project scale and complexity, required mitigation, and public interest:* We strongly urge the CEQ to provide further guidance on this issue and provide benchmarks for relating the EA analysis to project scale, complexity, and public interest. Such guidance may stem over-analysis and help agencies justify their actions in the event of litigation. We encourage the CEQ to support engaging the public in all stages of the process.

In conclusion, while it is uncertain as to whether the Report's recommendations will ultimately be implemented, we strongly encourage the CEQ to continue evaluating these recommendations. Specifically, SAF believes the above mentioned issues are critical to making sound, timely, and effective forest management decisions. We will continue to work with CEQ and the land management agencies to address the recommendations in this Report and other ways to improve NEPA implementation.

Thank you for your consideration.

Sincerely,



John H. Beuter  
President